

## **REMARKS/ARGUMENTS**

In response to the Office Action mailed June 29, 2006, the Examiner's claim rejections have been considered. The Applicant respectfully traverses all rejections regarding all pending claims and requests an early allowance of these claims, based on the Interview with Applicant's counsel conducted on July 24, 2006.

### **1. Introductory Comments**

Claims 1-22, 26 and 27 are pending in the present application.

Claims 1, 4-11 and 14-27 are rejected by the Examiner under 35 U.S.C. § 103(a) as being unpatentable over Fisher et al (U.S. Patent No. 5,835,896) in view of Brett (U.S. Patent No. 6,907,405) and further in view of Davis et al (U.S. Patent No. 6,269,361).

The remarks from Applicant's last Response that were discussed and agreed to with the Examiner in the July 24, 2006 Interview are repeated below.

### **2. Response to Claim Rejections under 35 U.S.C. § 103(a)**

Of the pending claims, claims 1 and 11 are independent claims. For brevity, and because the Applicant's arguments in traversal of the rejection of the independent claims are equally applicable for the relative dependent claims, the Applicant will address only the independent claims in this response. However, traversal is made with the understanding that the remaining dependent claims are patentably distinct over the prior art and may include additional features that, beyond those recited in the independent claims, provide further, separate, and independent bases for patentability.

The claimed invention predates Brett, which is cited art in the Office Action. Nevertheless, the Office Action relies solely on Brett to teach the element of checking for whether a first bid from a first bidder exceeds a second bid from a second bidder and incrementing or decrementing the bid to maintain the desired position. However, Brett has a filing date of February 7, 2001, which is more than 1 year after the filing date of the present

Application, which is January 27, 2000. Further, in a previous Office Action Response, the Applicant established that his invention date was before July 1, 1999.

Brett does refer to a chain of related applications and patents. Only two of those references predate the Applicant's invention, namely, U.S. Patent 6,023,685, filed May 23, 1997 (the '685 Patent), and U.S. Provisional Application No. 60/018,211 (the '211 Provisional Application), filed May 23, 1996. However, both the '685 Patent and the '211 Provisional Application fail disclose even an automated auction system. In this regard, there is no way that either of these systems could implement a method that checks for whether a first bid from a first bidder exceeds a second bid from a second bidder and increments or decrements the bid to maintain the desired position in an auction.

The bids are performed manually by the bidders in the prior art systems described in the '685 patent and the '211 Provisional Application. These systems merely provide an Internet link to handle receiving bids and determining the winner.

In summary, the newly cited art, Brett, is not prior art to the Applicant's invention, and the Office Action relies solely on Brett as a basis to teach an element of the claims. The only references related to Brett that pre-date the Applicant's filing date do not teach this element. Thus, Applicant submits that he has traversed the rejection of the Claims.

**CONCLUSION**

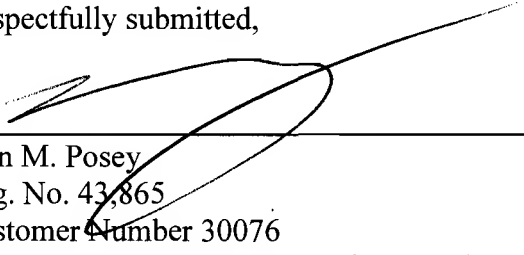
The Applicant has made an earnest and *bona fide* effort to clarify the issues before the Examiner and to place this case in condition for allowance. Reconsideration and allowance of all pending claims is believed to be in order, and an early Notice of Allowance to this effect is respectfully requested.

No fee is believed due with the submission of this paper. However, if the Applicant is mistaken, the Commissioner is hereby authorized to charge any further required fees from Deposit Account No. 502811.

Should the Examiner have any questions concerning the foregoing, the Examiner is invited to telephone the undersigned attorney at (310) 712-8300. The undersigned attorney can normally be reached Monday through Friday from about 9:00 AM to 6:00 PM Pacific Time.

Respectfully submitted,

Date: July 31, 2006

  
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